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HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(S) 5447/2007

PETITIONER K.C. Bharadwaj, S/o Late M.L. Bharadwaj, aged about 56 years, Posted as Officer, Chhattisgarh Gramin Bank, Gharghoda, District Raigarh (C.G.), R/o. Railway Banglapara, Near Swami Vivekanand School, Raigarh, Tahsil and District Raigarh (C.G.)

Versus

RESPONDENTS

1. The Chairman, Chattisgarh Gramin Bank, Head Office Recreation Road, Choubey Colony, Raipur, District Raipur (C.G.)
2. Special Duty Officer/General Manager, Chhattisgarh Gramin Bank, Niyantrak Office, Raigarh, Tahsil and District Raigarh (C.G.)
3. Branch Manager, Chhattisgarh Gramin Bank, Branch Gharghoda, District Raigarh (C.G.)

WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUION OF INDIA

Appearance:

Shri Parag Kotecha, Counsel for the petitioner.

ORAL ORDER
(24.9.2007)

SUNIL KUMAR SINHA, J.

Heard on admission.

The petitioner who is working on the post of Branch Manager in Chhattisgarh Gramin Bank, Branch – Gharghoda has been transferred from Branch – Gharghoda to Branch – Taushir.

Learned counsel for the petitioner submits that the transfer order is in violation of Transfer Policy, which has been issued by Circular No.*Karmik/16/2004-2005 dated 21.10.2004* filed at page No.48. He takes me to Clauses 3(a) and 4(a) contained in the Circular. Clause 3(a) says that normally the period of posting of a person holding a special post would be 3 years at one place. His submission is that the petitioner was posted at Gharghoda on 01.09.2004, therefore, even before completion of 3 years, he has been transferred from the said place of posting. Section 4(a) says about request made on the ground of husband and wife and it is said that the said request would be considerable on the merits of the case.

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In the matter of ***Union of India – Vs- S.L. Abbas, AIR 1993 SC 2444***, it has been held by the Apex Court that the guidelines issued by the Government about the transfer of Government employee do no confer upon the Government employee a legally enforceable right. It has also been held vide para 7 of the aforesaid judgment that who should be transferred where, is a matter for the appropriate authority to decide. Unless the order of transfer is vitiated by malafides or is made in violation of any statutory provisions, the Court cannot interfere with it. However, it has been further held that while ordering the transfer, there is no doubt, the authority must keep in mind the guidelines issued by the Government on the subject.

Further in the matter of ***State of U.P. and others vs. Gobardhan Lal, 2004 AIR SCW 2082***, it has been observed by the Apex Court that even administrative guidelines for regulating transfers or containing transfer policies at best may afford an opportunity to the officer or servant concerned to approach their higher authorities for redress but cannot have the consequence of depriving or denying the competent authority to transfer a particular officer/servant to any place in public interest and as is found necessitated by exigencies of service as long as the official status is not affected adversely and there is no infraction of any career prospects such as seniority, scale of pay and secured emoluments. The Apex Court has further observed that the order of transfer made even in transgression of administrative guidelines cannot also be interfered with, as they do not confer any legally enforceable rights, unless, as noticed supra, shown to be vitiated by mala fides or is made in violation of any statutory provision.

Learned counsel for the petitioner could not point out any ground for treating the transfer as malafide or showing it to be on extraneous consideration or that the order of transfer is against any statutory Rules or the Act applicable in case of the petitioner.

I do not find any reason to interfere with the order of transfer issued by the competent authority in case of the petitioner, particularly on the grounds pressed by learned counsel for the petitioner before this Court. Moreover, there does not appear any violation of transfer policy, because even if the petitioner is treated to be holding a special post, he is completing almost 3 years at Gharghoda and as far as case of husband

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and wife is concerned, it is stated that wife of the petitioner is working as Assistant Teacher, Raigarh, whereas, the policy says "*Dampatya Aadhar*" which necessarily mean by implication that if both are working in the Bank itself.

There appears to be no reason to interfere with the order on these grounds.

The petition has no merit and the same is dismissed at the motion stage itself.

Sd/-
Sunil Kumar Sinha
Judge

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